

FREEDOM COURT REPORTING

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1 Q What role do you play in the
2 opening of positions?

3 A Depends on where the position is.
4 Q Let's say, for example, when
5 positions come open in Region III, do you
6 play a role in how those positions come
7 open?

8 A A very limited role.

9 Q Can you describe for me what that
10 limited role is?

11 A The limited role is there are
12 only individuals or certain positions within
13 the department that have appointing
14 authority, and in Community Services, there
15 is no one with that authority, so that if a
16 position becomes vacant and there is a
17 request to fill that position, then I sign
18 as the appointing authority. No more than
19 that.

20 Q Would that go for any position in
21 Region III, for example?

22 A Any region? Any Community
23 Services area it's no appointing authority

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1 within Community Services, and, therefore,
2 if a position is requested to be filled, as
3 the appointing authority, I sign for it to
4 be filled. No more than that.

5 Q So just trying to be clear here,
6 if there's a position available, you sign
7 off and say it's okay for that position to
8 be filled?

9 A Correct.

10 Q Do you play any role in
11 eliminating positions or creating new
12 positions?

13 A Anything that requires appointing
14 authority, that is correct.

15 Q And what do you mean by
16 appointing authority?

17 A The system in the department is
18 that only a restricted number of individuals
19 have that authority. Facility Directors
20 have that authority and the Associate
21 Directors have that authority and the
22 Commissioner, naturally. Nobody else has
23 it. So that any position that is filled,

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1 any position that's created, has to have the
2 associate's appointing authority and the
3 Commissioner, if it's a new position,
4 Commissioner's signature.

5 Q Okay. And by appointing, I guess
6 I'm trying to narrow that down, what do you
7 mean by appointing?

8 A If a position becomes available
9 in Community Services where there is no
10 appointing authority, by the definition that
11 the department has established, someone with
12 that authority has to sign it to fill the
13 position.

14 Q So what, are we talking about
15 positions that maybe there's an interview
16 process and there's a selection process?

17 A All positions have an interview
18 process.

19 Q Do you play any role in the
20 interview process?

21 A For?

22 Q For example, for so positions in
23 Region III?

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1 Ms. Blackledge's complaints about her
2 performance appraisal?

3 A Don't remember that I did.

4 Q You don't recall talking to Mr.

5 Ervin or anyone --

6 A He didn't ask me a question.

7 Q This is another one, Plaintiff's
8 57, also copied to you.

9 A The subject matter I do remember,
10 but the subject matter appears to be the
11 same for the two.

12 Q Okay. Also discussing the
13 performance appraisal?

14 A Yes. As I said, whether I
15 received both of them, the subject matter is
16 in both. Okay.

17 Q And does the same thing apply,
18 you would send those to your secretary just
19 to file?

20 A Correct.

21 Q Okay. Were you aware also that
22 Ms. Blackledge had filed an EEOC complaint?

23 A I think the legal office did make

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1 me aware of that.

2 Q Do you remember when you were
3 made aware of that?

4 A No.

5 Q Let's see if we can get some type
6 of idea. If it was filed in maybe April of
7 2004, do you know if they notified you
8 sometime soon after that, or was it more
9 recently?

10 A I don't remember.

11 Q You can't give me an estimate?

12 Was it within the last six months?

13 A No, I don't remember.

14 Q Okay. And what did the legal
15 department -- well, sorry. Were you also
16 made aware that she had filed a lawsuit
17 against the department?

18 A Yes.

19 Q Do you remember when you were
20 made aware of that?

21 A No.

22 Q I'm going to jump back in to what
23 we were talking about earlier, about job

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1 Q Do you recall playing any role in
2 that position being opened?

3 A As the appointing authority, yes.

4 Q And do you know if someone was in
5 that position prior to it being opened, or
6 was this a newly created position?

7 A I don't think anybody was in that
8 position before. But that's -- my memory
9 may not be good.

10 Q Well, that's all we've got.
11 That's fine. That's all I'm asking about is
12 what you remember. So do you remember who
13 received that position?

14 A There are two Quality Assurance
15 positions in -- there are three in Region
16 III, so you would have to give me the
17 answer. There are three Quality Assurance
18 positions.

19 (Whereupon Plaintiff's
20 Exhibit Number 69 was marked and
21 attached to the deposition.)

22 BY MR. WILSON

23 Q Okay. This is Plaintiff's

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1 Exhibit 69, stating Daphne Rosalis received
2 that position.

3 A Okay.

4 Q Does that help?

5 A That's fine.

6 Q Do you know Ms. Rosalis?

7 A Yes.

8 Q She's a white employee, correct?

9 A She's a female of Caucasian race,
10 that's correct.

11 Q Did you play any role in her
12 selection to that position?

13 A A distant role. First of all, I
14 signed, as the appointing authority, for it
15 to be filled. As any of my executive staff
16 do as they are beginning to fill positions
17 or have interviewed to fill them, during our
18 weekly conversation, we probably talked
19 about it. If you're saying did I have a
20 hand in it, no.

21 Q Who is B.C. Farnum?

22 A Who is B.C. Farnum. A professor
23 at Troy State University.

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1 Q Did he used to work here?

2 A Yes.

3 Q For the -- he used to work for
4 the department?

5 A Correct.

6 Q Do you know when he left?

7 A No.

8 Q Do you know what his position was
9 when he left?

10 A Yes.

11 Q What was his position?

12 A Director of Quality Enhancement.

13 (Whereupon Plaintiff's
14 Exhibit Number 70 was marked and
15 attached to the deposition.)

16 BY MR. WILSON

17 Q I will go ahead and mark this.

18 I'm kind of jumping around a little bit, but
19 this Plaintiff's Exhibit 70 is a interview
20 assessment for that Planning and Quality
21 Assurance position, and let me just ask you
22 if you've seen a document like this before?

23 A Seen a document like that?

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1 Q Sure.

2 A Yes.

3 Q And can you tell me what that
4 document is?

5 A It's a summary that Personnel
6 would do for a position during -- at the end
7 of an interview process.

8 Q And there's scoring involved in
9 that?

10 A Correct.

11 Q If you would, let me finish. In
12 that interview process, correct?

13 A Correct.

14 Q And do you know -- do you know if
15 the scoring is based solely on interviews?

16 A Well, I know it would be no way
17 for me to know that.

18 Q Well, let's just take for an
19 example, B.C. Farnum grades Yolanda Thomas
20 with a 25. Do you know what that 25 is
21 based on?

22 A Do I personally no, no.

23

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1 (Whereupon Plaintiff's
2 Exhibit Number 71 was marked and
3 attached to the deposition.)

4 BY MR. WILSON

5 Q Okay. This is Plaintiff's
6 Exhibit 71, essential job functions for
7 Planning and Quality Assurance Specialist II
8 at Brewer. I will ask first if you've seen
9 this document before.

10 MR. TARVER: Let me look at this
11 one, because I don't know if I've
12 seen it either.

13 A I was going to say I don't know.

14 MR. TARVER: I may have. I don't
15 know.

16 A Yeah, I don't know.

17 MR. TARVER: I guess we have. We
18 sent this one to you.

19 A Well, then it would be in the
20 book that you gave me.

21 MR. TARVER: Okay.

22 A I don't remember reading it even
23 in the book.

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1 Q Okay. Can you tell me what that
2 document is?

3 A I think during an interview,
4 Personnel puts together something like this
5 for every position and at some point during
6 the interview, they give it to the
7 candidate.

8 Q Okay.

9 A So, I, personally, until the book
10 may not have seen this.

11 Q You didn't play any role in
12 drafting it?

13 A No, Personnel does that.

14 (Whereupon Plaintiff's
15 Exhibit Number 72 was marked and
16 attached to the deposition.)

17 BY MR. WILSON

18 Q And this is Plaintiff's Exhibit
19 72. I will just ask first if you've seen
20 that document before?

21 A Only in the book.

22 Q Okay.

23 A No. I haven't seen one that has

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1 the names like that, no.

2 Q What do you mean "names like
3 that"?

4 A Well, there's a crossout, I don't
5 remember seeing one that has any crossed out
6 like that.

7 Q Okay. But you recall seeing just
8 the names listed?

9 A Just the names listed, and I
10 don't know that it had race on it.

11 Q Does that one list race on them? /

12 A Right. I take it that's what
13 that represents.

14 Q And by that you mean the BF --

15 A Right.

16 Q Just let me finish. That would,
17 in your belief, refer to black female or
18 white female if it's WF or black male if
19 it's BM?

20 A Well, that's what it looked like
21 to me.

22 Q Looks like that to me, also.

23 A Okay.

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1 Q Do you have any idea why that's
2 listed on there?

3 A No.

4 Q In the interrogatories that were
5 provided by the department that we
6 requested, you were listed as a person
7 responsible for opening that Planning and
8 Quality Assurance II position?

9 A Appointing authority.

10 Q Okay. It lists you and B.C.
11 Farnum. Did you and Mr. Farnum work
12 together on opening that position at all?

13 A Mr. Farnum worked in my office.
14 He was a direct support. No one in the
15 Developmental or Division of Retardation,
16 except the Director of Partlow and myself,
17 have appointing authority. All positions
18 have to go through one or the other.

19 Q So would you say you're not a
20 person responsible for opening that
21 position?

22 MR. TARVER: Object to the form.

23 A As the appointing authority, I

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1 had to open the position, that's correct.

2 Q I don't know if that was an
3 answer. I'm just -- were you -- someone had
4 had to be responsible for opening the
5 position. Is that you?

6 A As appointing authority, I opened
7 the position.

8 Q Is that -- I'm just not getting
9 an answer.

10 A I'm not sure then what you want.

11 Q I'm just wondering were you
12 responsible for the opening, was Mr. Farnum
13 responsible, was somebody else above you
14 responsible?

15 MR. TARVER: Object to the form.

16 A Mr. Farnum did not have
17 appointing authority. In order to open the
18 position, someone in appointing authority
19 has to open the position, has to sign to
20 open the position.

21 Q And did you have to talk to
22 someone in a position above you about
23 opening that position?

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1 Q The interrogatories say that the
2 panel made a recommendation to you about
3 that position. Do you recall that?

4 A The panel didn't. Mr. Farnum
5 probably in a regularly scheduled weekly
6 meeting said, "We interviewed it, this is
7 the results, the panel." That's just the
8 way administration works. You know, you
9 have a meeting with your staff before they
10 go about hiring somebody, they would have
11 discussed it with me. That's normal
12 everyday activity.

13 Q And then who makes that decision?

14 A They make the decision if I agree
15 with -- I mean, you know, they tell me and I
16 don't disagree with them, they make the
17 decision.

18 Q In this instance Mr. Farnum --

19 A Would have made the decision.

20 Q He made a recommendation to you
21 and you approved it?

22 A I don't do anything formal, if
23 that's what you're asking.

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1 Q Okay.

2 A After I sign the request to fill
3 as the appointing authority, I don't make
4 any formal --

5 Q So for this Planning and Quality
6 Assurance II position, Mr. Farnum made the
7 decision to hire Ms. Daphne reRosalis?

8 MR. TARVER: Object to the form.

9 A He -- yeah. Yeah, essentially.
10 She reports to him.

11 Q Do you recall if he discussed
12 anything about Ms. Rosalis with you?

13 A As a part of our weekly meetings
14 before he hired someone, he would have, yes.
15 He would have discussed that.

16 Q And do you remember him
17 discussing anything about his reasons for
18 selecting her?

19 A No, I don't remember that.

20 Q Do you remember discussing her
21 credentials or anything?

22 A He may have. I don't remember.
23 I'm not going to say that he didn't and are

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1 Q Okay.

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3 as the appointing authority, I don't make
4 any formal --

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6 Assurance II position, Mr. Farnum made the
7 decision to hire Ms. Daphne reRosalis?

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12 anything about Ms. Rosalis with you?

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14 before he hired someone, he would have, yes.
15 He would have discussed that.

16 Q And do you remember him
17 discussing anything about his reasons for
18 selecting her?

19 A No, I don't remember that.

20 Q Do you remember discussing her
21 credentials or anything?

22 A He may have. I don't remember.
23 I'm not going to say that he didn't and are

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1 not going to say he did.

2 Q You don't remember one way or the
3 other?

4 A Correct.

5 (Whereupon Plaintiff's
6 Exhibit Number 73 was marked and
7 attached to the deposition.)

8 BY MR. WILSON

9 Q So we have some sort of order
10 here, this is Plaintiff's Exhibit 73. This
11 appears to be Ms. Daphne Rosalis' resume,
12 and I will just ask you if you've ever seen
13 that before?

14 A The most recent was in the book
15 they prepared for me.

16 Q Okay. You don't recall seeing
17 that back when Mr. Farnum was discussing the
18 position?

19 A I don't remember that I did.

20 Q Don't know one way or the other?

21 A I don't remember one way or the
22 other.

23

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1 (Whereupon Plaintiff's
2 Exhibit Number 74 was marked and
3 attached to the deposition.)

4 BY MR. WILSON

5 Q This is Plaintiff's Exhibit 74.

6 I'll just ask if you know what this document
7 is.

8 A What it is?

9 ○ Yes.

10 A It says it's an applicant
11 evaluation form.

12 Q Are you familiar with those
13 documents?

14 A Yeah. I've seen one. Usually,
15 we don't get them.

16 Q Is that just something, to your
17 knowledge, an employee would fill out if
18 they were applying for a position?

19 A No, personnel does this. It's a
20 Personnel worksheet.

21 Q So Personnel filled that on an
22 applicant?

23 A Correct.

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1 Q I'm asking you if you know is it
2 common to ask applicants about if they've
3 been convicted of a felony?

4 A Yes. It's on the application.

5 Q Okay. If you will speak up?

6 MR. TARVER: She's asking me and
7 I'm not answering.

8 A He's wasn't answering. I'm sure
9 it's on the application blank.

10 Q Just from now on, no
11 conversations. If you want to take a break,
12 that's fine, just let me know. It gets
13 confusing when we're muttering stuff under
14 our breath.

15 A I do that frequently, I'm an old
16 lady.

17 Q I do too.

18 A You're a young man.

19 (Whereupon Plaintiff's
20 Exhibit Number 75 was marked and
21 attached to the deposition.)

22 BY MR. WILSON

23 Q This is Plaintiff's Exhibit 75.

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1 The question is asking if you've ever been
2 convicted of a felony or other law
3 violations, other than minor traffic
4 violations. And this was given with
5 Mr. Rosalis' documents, although it doesn't
6 have her name on here. Says she pled no
7 contest to first offense DUI on 2/7/2000.
8 I'm just trying to figure out if this is
9 something -- a document that's normally
10 given to an employee to fill out. Do you
11 know?

12 A On the -- on the application --
13 the department application, there is the
14 question. I don't know what this sheet of
15 paper is.

16 Q Okay.

17 A Okay.

18 Q And do you remember if Mr. Farnum
19 discussed anything with you about
20 Ms. Rosalis having a DUI?

21 A First time I saw this was in the
22 packet that was provided to me.

23

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1 (Whereupon Plaintiff's
2 Exhibit Number 76 was marked and
3 attached to the deposition.)

4 BY MR. WILSON

5 Q Okay. This is Plaintiff's
6 Exhibit 76, and I'm just going to include
7 this because I think it goes with
8 Ms. Rosalis' information. I'll ask if
9 you've seen it.

10 A Are you asking me a question?

11 Q Have you seen that before?

12 A In the packet that was provided
13 to me.

14 Q Okay. Let's take a quick break.

15 (Whereupon, a short break was taken.)

16 BY MR. WILSON

17 Q Are you aware that the Planning
18 and Quality Assurance II position that we've
19 been discussing is part of this lawsuit
20 Ms. Blackledge has filed?

21 A Uh-huh.

22 Q You are aware?

23 A Yes.

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1 Q Ms. Blackledge has also filed a
2 lawsuit about a Community Services
3 Specialist III position that was opened in
4 2003. Do you know anything about the
5 opening of that position?

6 A Only that I would have had to
7 sign as the appointing authority.

8 Q The same duties you discussed
9 with the other position?

10 A That's correct.

11 Q And, again, interrogatories
12 you're listed as one of the persons
13 responsible for opening the position, along
14 with Susan Stuardi and Fordyce Mitchell.
15 This position, do you recall if it was on
16 the staffing plan at the time it was open?

17 A I don't know that. I don't
18 remember that one way or the other.

19 Q Do you recall if anyone had that
20 position prior to it being opened?

21 A That, I don't know.

22 Q Don't know?

23 A No.

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1 Q Do you recall having any
2 discussions with Ms. Susan Stuardi about
3 opening that position?

4 A I don't remember that specific
5 position. She had at some point asked me
6 had I signed as a appointing authority for a
7 position, but I don't remember that it was
8 this specific position.

9 (Whereupon Plaintiff's
10 Exhibit Number 77 was marked and
11 attached to the deposition.)

12 BY MR. WILSON

13 Q This is Plaintiff's Exhibit 77.
14 This was part of the documents that was
15 given to me Tuesday, I believe, that we had
16 requested. This is an E-mail from Ms. Susan
17 Stuardi to you with a copy to Mr. Mitchell.
18 Let me ask you if you remember seeing this
19 document, Plaintiff's Exhibit 77, this
20 E-mail?

21 A I don't recall. As I indicated,
22 there was a position she called and asked me
23 if, indeed, I had signed the appointing

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1 authority.

2 Q She seems to be discussing trying
3 to open the CSS III position, is that
4 correct?

5 A Does it say that? CSS III
6 position is what she's asking about.

7 Q And does she seem to be asking
8 about opening that position?

9 A Yes, she seems to be asking.

10 Q About opening it?

11 A Yes.

12 Q And do you know -- why do you
13 believe she sent that to you?

14 A Why do I believe she sent it to
15 me? Because I'm the appointing authority.

16 Q Okay. And do you remember any
17 actions you took after receiving that
18 E-mail?

19 A No.

20 Q Can we tell from that then that
21 nobody was in that CSS III position at that
22 time of the E-mail?

23 A Can we tell from that? "This is

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1 a position we've been trying to process"

2 MR. WILSON: I object to the
3 form, because I didn't get
4 question. I'm sorry.

5 A Based on the memo, it sounds like
6 she was asking to fill a position that was
7 open.

8 Q Do you know what she means by
9 this second sentence here: "I plan to use
10 this as a promotional position"?

11 A You would have to ask her about
12 that.

13 Q Do you know what a promotional
14 position is?

15 A There is no such thing in this
16 department.

17 Q So was she not following
18 procedures by using it as a promotional
19 position?

20 MR. TARVER: Object to the form.

21 A As far as I know, there is no
22 such thing as a promotional. There is an
23 opportunity for people to apply for higher

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1 level positions. Now, that's my
2 understanding.

3 Q Do you have any idea what she's
4 talking about in the second paragraph where
5 she says "for the vacancy, which will be
6 created"? Let me ask about that first. Do
7 you know about the vacancy that will be
8 created?

9 A Okay. Now what's your question?

10 Q Do you know what she means by
11 saying "for the vacancy that will be
12 created," what's the vacancy that will be
13 created?

14 A I don't know what she was saying.

15 Q What is the OP plan?

16 A Well, OP is operation. That's
17 the abbreviation.

18 Q Do you remember being involved in
19 opening this position? She's asking here,
20 "Your help is appreciated," at the end.

21 A She wanted me to sign as the
22 appointing authority. That's what she
23 wanted.

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1 Q So Susan was the one making the
2 decisions on this job, the CSS III job?

3 A Correct.

4 Q And do you remember having any
5 discussions with her about this CSS III --

6 A She was annoyed.

7 Q Let me finish. Go ahead.

8 A She was annoyed that I had not
9 signed the appointing authority document. I
10 told you that. I didn't remember which one.
11 I knew that she was annoyed at me because I
12 had not signed something.

13 Q And do you think it was this CSS
14 III position?

15 A Evidently, based on this memo.

16 Q Do you know why she was annoyed
17 or why do you believe she was annoyed?

18 A Because I hadn't signed it.

19 Q And why hadn't you signed it?

20 A During that time we were in the
21 process of several major activities within
22 the department. It may be that I just
23 didn't get to it.

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1 Q Ms. Blackledge has also filed a
2 lawsuit about a Community Services
3 Specialist III position that was opened in
4 2003. Do you know anything about the
5 opening of that position?

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15 me? Because I'm the appointing authority.

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17 actions you took after receiving that
18 E-mail?

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21 nobody was in that CSS III position at that
22 time of the E-mail?

23 A Can we tell from that? "This is

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1 and the process.

2 Q And I understand what you're
3 saying, that there's a panel, but what if
4 the person that makes the decision on the
5 job is on that panel?

6 A It's one person. One out of
7 four, one out of five.

8 Q But that person makes the final
9 decision, correct?

10 A Yeah. But you look at the
11 panel's decision.

12 Q But, ultimately, it's their
13 position?

14 A That's correct.

15 Q And, ultimately, for the CSS III
16 position, it was Susan Stuardi's decision?

17 MR. TARVER: Object to the form.

18 Q I thought that's what you
19 testified to already.

20 A Within the guidelines of the
21 department, correct.

22 Q And I thought you testified
23 earlier that Susan Stuardi made the decision

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1 person within our division, besides the
2 Facility Director, who can sign quote, "as
3 the appointing authority," but actually it
4 goes to the Commissioner and the
5 Commissioner is the only legal appointing
6 authority for the department.

7 Q Appointing authority for what?

8 A For the department.

9 MR. TARVER: For hiring people.

10 For putting people --

11 THE WITNESS: Correct.

12 MR. TARVER: -- in a position
13 except -- if I might?

14 MR. WILSON: Sure.

15 MR. TARVER: Just to clarify, as
16 a matter of law in Alabama,
17 there's case law that establishes,
18 besides the Commissioner, that
19 Facility Directors have appointing
20 authority also. Case law in our
21 statute -- the statute speaks to
22 the Commissioner, the case law
23 speaks to the Commissioner and

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1 Facility Director, because the
2 Commissioner can delegate the
3 appointing authority. To my
4 knowledge, and I believe she can
5 speak for herself and you can ask
6 her, I believe what Ms. Wilson is
7 saying, the Commissioner has
8 formally delegated to the
9 Associate Commissioner appointing
10 but they have to sign off for it
11 for the budget out of the division
12 she heads. So that's what she's
13 referring to when she uses that
14 terms, if that clarifies.

15 MR. WILSON: Okay.

16 MR. TARVER: Okay.

17 BY MR. WILSON

18 Q I may have asked you this, and I
19 apologize. Did you have any discussions
20 with Mickey Groggel about the CSS III
21 position?

22 A I wouldn't remember that I did.

23 Q Are you friends with Ms. Groggel?

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1 A Oh, no. No.

2 Q Did you have any recommendations
3 as to who should be selected for the CSS III
4 position?

5 A Not that I remember.

6 Q So we would have to rely on
7 Ms. Stuardi and Mr. Mitchell for that,
8 correct?

9 A For the recommendation to fill?

10 Q Yes.

11 A Yes.

12 Q I just want to be clear, because
13 you're listed on the interrogatories that
14 the panel made a recommendation to you for
15 that CSS III position.

16 A That's not totally correct, the
17 way it's worded.

18 Q Okay.

19 A Mr. Mitchell, as the person who
20 reports to me, probably did discuss that
21 with me.

22 Q But you don't recall?

23 A I don't recall all the things

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1 that he and I have discussed.

2 Q You don't recall specifically
3 talking to him about the CSS III position?

4 A No, I don't specifically recall
5 that.

6 Q And you don't recall specifically
7 talking with Ms. Stuardi about the CSS III
8 position?

9 A I recall that she was annoyed at
10 me about some position. Based on the memo,
11 it sounds like that was the position she was
12 annoyed at me for not signing off on.

13 Q But you don't have any
14 recollection about any conversations with
15 Ms. Stuardi about who should be hired for
16 the CSS III position?

17 A I don't recall.

18 Q Okay. Were you aware that a
19 Planning and Quality Assurance II position
20 was opened up in 2004?

21 A I would have had to be aware.

22 Q Because you would sign off,
23 correct?